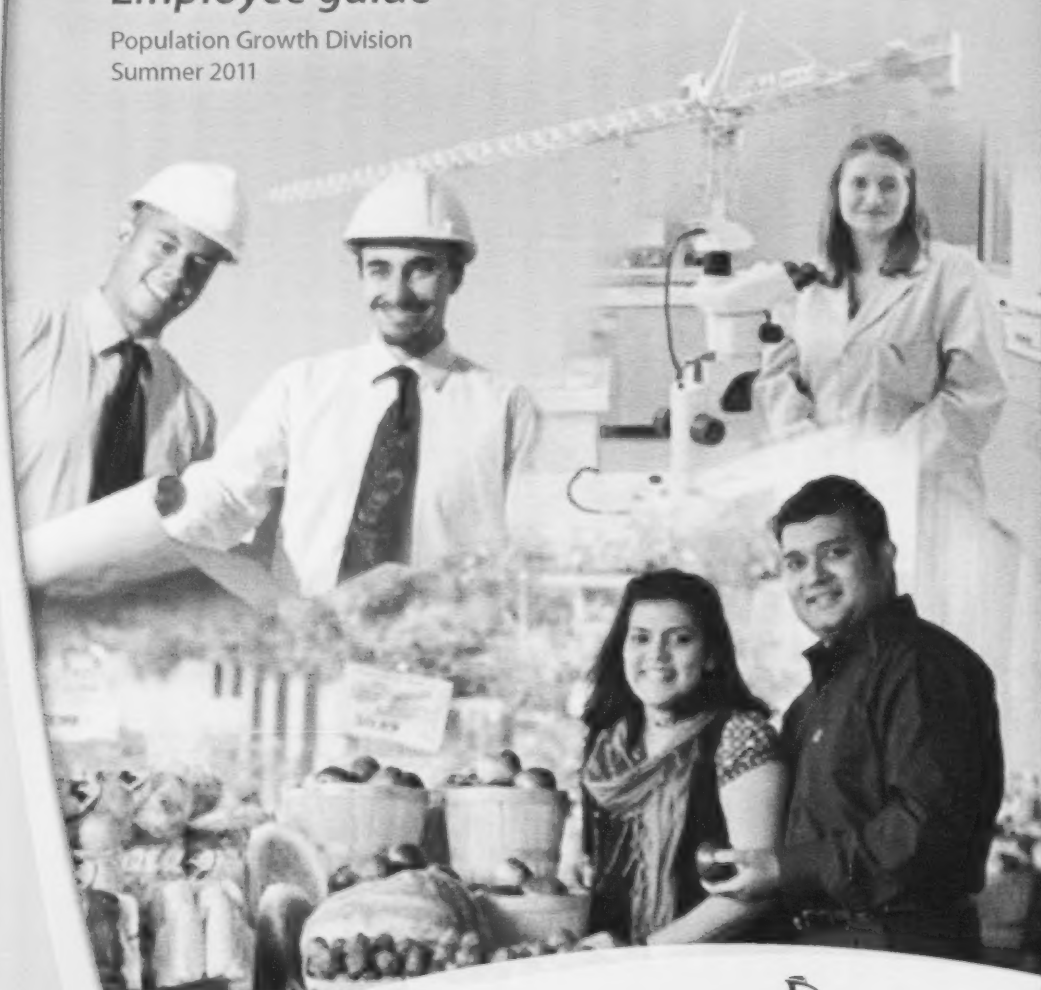


New Brunswick Temporary Foreign Workers

Employee guide

Population Growth Division
Summer 2011



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Introduction:

Temporary foreign workers in New Brunswick have the same rights as other employees. They are protected under New Brunswick's employment standards, workplace health and safety and workers' compensation legislation.

This guide will help temporary foreign workers understand what to expect in a New Brunswick workplace and where to find additional information and resources.

Temporary Foreign Worker Program:

The federal government's Temporary Foreign Worker Program admits eligible foreign workers to work in Canada for an authorized temporary period, typically ranging from three months to three or four years.

Three federal government departments manage and deliver the program. Human Resources and Skills Development Canada / Service Canada, Citizenship and Immigration Canada and the Canada Border Services Agency are the primary organizations responsible for processing and delivering work permits.

Human Resources and Skills Development Canada / Service Canada

Service Canada, the service delivery component of Human Resources and Skills Development Canada, processes applications from employers requesting temporary foreign workers and issues a Labour Market opinion (LMO), which is an assessment of the likely impact that hiring the requested foreign workers (s) may have on the Canadian labour market.

In most cases, a positive LMO is required before applying to Citizenship and Immigration Canada for a work permit.

Citizenship and Immigration Canada

Citizenship and Immigration Canada and its visa offices in Canadian embassies, high commissions and consulates process applications for work permits to determine who may be eligible to work in Canada. In most cases, Citizenship and Immigration Canada is the first point of contact for many foreign workers wanting to work in Canada. However, under certain circumstances, some foreign workers may also apply for a work permit at a port of entry.

For more information about work permits:

- Citizenship and Immigration Canada:
1-888-242-2100 (toll-free)
www.cic.gc.ca/english/work/index.asp

Canada Border Services Agency

Canada Border Services Agency is responsible for screening foreign workers at all Canadian border crossings and airports prior to issuing work permits and allowing entry into Canada. A Visa and Border Services officer makes the final decision about who may enter Canada. For example, officers can deny entry if they believe the foreign worker does not meet the requirements of the *Immigration and Refugee Protection Act*.

The complete text of the *Immigration and Refugee Protection Act* and accompanying manuals can be found at:

- Federal Department of Justice:
www.laws.justice.gc.ca/en/l-2.5/index.html

General information:

Use of recruitment agents

Should foreign workers choose to hire a recruitment agent to help them with completing a work permit application, the foreign worker remains responsible for the accuracy of the information provided.

Temporary foreign workers are advised to be cautious in their dealings with recruitment agents as cases of abuse of confidence have been known to happen. It is also recommended to meet with a number of recruitment agents before deciding on a recruitment agent because fees may vary greatly from one agent to the next.

Further information about recruitment agents:

- Citizenship and Immigration Canada:
1-888-242-2100 (toll-free)
www.cic.gc.ca

Work permit terms and conditions

Temporary foreign workers must comply with *all* the terms and conditions imposed on their work permit. For additional information:

- Citizenship and Immigration Canada:
1-888-242-2100 (toll-free)
www.cic.gc.ca
- Human Resources and Skills Development Canada / Service Canada:
www.hrsdc.gc.ca/en/workplaceskills/foreign_workers/index.shtml

Right to remain in Canada

Temporary foreign workers are entitled to remain in Canada for the full term of their work permit. Employers or employment agencies cannot force workers to return home if the work contract is terminated before the end of the work permit; or if the employees decide to find another employer.

Reporting violations

It is illegal to threaten, to send or coerce a temporary foreign worker to go home to prevent him or her from reporting a violation. Any employer or employment agency that engages in such behaviour is subject to prosecution under the *Criminal Code of Canada*.

Employers cannot, *under any circumstances*, seize foreign worker passports and/or hold travel and identification documents against an employee's will.

Termination of employment

If a temporary foreign worker does not meet the expectations of an employer, as outlined in the job contract, employers have the right to terminate employment, giving the worker the required notice or pay in lieu of notice.

Finding new employment

Temporary foreign workers may choose, at any time, to find other employment. New employers, however, are required to obtain an LMO, and the worker must apply for a work permit that reflects the changes in employer, location and/or job description BEFORE the employee begins to work for a new employer.

Changing the conditions of a work permit

Temporary foreign workers may apply to extend their stay, change the conditions of their stay, change their type of temporary status, or correct problems with their status. It is important to remember to apply for a permit renewal before any documentation expires. Applications for permits can be obtained at:

- Citizenship and Immigration Canada:
1-888-242-2100 (toll-free)

What employees in New Brunswick need to know:

Employment standards

Employment standards are the minimum standards of employment for employers and employees.

Most employees, including temporary foreign workers, are covered by the *Employment Standards Act*. The act does not distinguish among part-time, full-time and casual employees. All employees are entitled to the minimum employment rights outlined in the *Employment Standards Act*.

Employees who work in areas that fall under federal jurisdiction are covered by the *Canada Labour Code*. Those areas include but are not limited to the following: railways, pipelines, ferries, radio and television, banks, cable systems, extra-provincial trucking and shipping, federal Crown corporations and many First Nation activities.

For more information about federally regulated work practices:

- Human Resources and Skills Development Canada:
1-800-622-6232 (toll-free)
www.hrsdc.gc.ca

By virtue of the occupation or industry in which they work, some people are not subject to the *Employment Standards Act*. These include persons who work in a private home for the homeowner (babysitters, home-care workers and construction workers employed directly by the homeowner), independent contractors and in certain cases, persons who provide agricultural services to small family farms.

Employment standards are regulated by the Department of Post-Secondary Education, Training and Labour.

For all questions about the *Employment Standards Act* or its regulations:

- Employment Standards Branch,
Department of Post-Secondary Education, Training and Labour
506-453-2725; 1-888-452-2687 (toll-free in New Brunswick)

The following is a partial list of employment standards topics:

Getting paid

New Brunswick employers are required to pay their employees at least every 16 calendar days. On each pay day, employees should receive all wages and commissions owed to them up to seven days prior to pay day.

Employers must pay each of their employees in Canadian dollars, by cheque or deposit to the employee's personal bank accounts.

Employers are also required to give each of their employees a pay statement on each pay day showing:

- the dates of the pay period and the gross wages for that period; and
- the amount and description of each deduction, and the net pay.

Deductions from earnings

The *Employment Standards Act* does not expressly set out the conditions under which an employer may deduct moneys from an employee's wages. However, the Labour and Employment Board has established criteria in this regard.

Employees should contact the Employment Standards Branch before allowing their employer to make any deduction to their wages other than those regulated by law (Employment Insurance, Canada Pension and court-ordered).

Weekly rest period

All employees are entitled to a weekly rest period of at least 24 consecutive hours, if possible on a Sunday. The only exceptions to this are where:

- the employee is required to cope with an emergency; or
- the employee is not usually employed for more than three hours in any one day.

Food and rest breaks

All employees are entitled to food and rest breaks as required under the *Occupational Health and Safety Act*. Employers must allow all employees at least one half-hour for food and rest after each five consecutive hours of work.

For more information:

- WorkSafeNB
1-800-222-9775 (toll-free)

Sunday work

An employee who works in certain retail businesses may be able to refuse to work on Sunday. If this employee qualifies and wishes to refuse to work on a Sunday, he or she must give the employer verbal or written notice of the refusal at least 14 days before any Sunday for which he or she refuses to work.

For more information:

- Employment Standards Branch,
Department of Post-Secondary
Education, Training and Labour
506-453-2725; 1-888-452-2687 (toll-free
in New Brunswick).

Overtime

New Brunswick has a minimum overtime wage rate. Employers must pay their employees at least one and one-half times the minimum wage for each hour they work in excess of 44 hours during a work week.

Employers have the right to require their employees to work overtime. However, employers must compensate employees for all overtime hours worked at the minimum overtime wage rate. Banking of hours is not permitted.

Minimum wage

New Brunswick has a minimum wage rate that employers are required to pay their employees for each hour worked.

All employees paid by salary, commission and for piece work must receive at least minimum wage for every hour worked.

In addition to the general minimum wage rate, there are special minimum wage rates for:

- certain categories of employees in government construction work (road, bridge and building construction) and;
- counsellors and program staff at residential summer camps.

For more information:

- Employment Standards Branch,
Department of Post-Secondary
Education, Training and Labour
506-453-2725; 1-888-452-2687 (toll-free
in New Brunswick)
To obtain the current minimum wage
rate

Paid public holidays

New Brunswick has seven paid public holidays: New Year's Day, Good Friday, Canada Day, New Brunswick Day, Labour Day, Remembrance Day and Christmas Day. For more information:

- Employment Standards Branch,
Department of Post-Secondary
Education, Training and Labour

Vacation time

Employers are required to give all their employees an annual vacation leave with vacation pay dependent on each employee's years of service.

An employee who has *fewer than eight* years of employment with the employer is entitled to a vacation that as a minimum is equal to two regular work weeks or one

day for each calendar month during the vacation pay year in which the employee worked, whichever is less.

An employee who has *eight or more* years of continuous employment with the employer is entitled to receive a vacation that as a minimum is equal to three regular work weeks or one and one-quarter days for each calendar month during the vacation pay year in which the employee worked, whichever is less.

Vacation pay

An employee who has *fewer than eight* years of employment with the employer is entitled to receive a vacation pay equal to *four per cent* of his gross wages (before deductions).

An employee who has *eight or more* years of employment with the employer is entitled to receive a vacation pay equal to *six per cent* of his gross wages (before deductions).

Leave information

As a temporary foreign worker in New Brunswick, you may be eligible to receive maternity leave, child care leave, family responsibility leave, compassionate care leave, bereavement leave and/or sick leave.

For more information:

- Employment Standards Branch,
Department of Post-Secondary
Education, Training and Labour
506-453-2725; 1-888-452-2687 (toll-free
in New Brunswick).
www.gnb.ca/labour

Payment of wages

When employment ceases, all pay (vacation pay, regular wages, overtime pay and public holiday pay) normally due on the next regular pay day must be paid to the employee at that time. All other outstanding pay, commissions and other benefits must be paid no later than 21 calendar days after the employee's last day of employment, depending upon the employment contract.

Filing a complaint

To file a complaint:

- Employment Standards Branch,
Department of Post-Secondary
Education, Training and Labour
506-453-2725; 1-888-452-2687 (toll-free
in New Brunswick)

Employers cannot dismiss, suspend, layoff, penalize, discipline or discriminate against an employee for making a complaint or giving information against the employer with respect to the *Employment Standards Act*.

Human rights:

All persons in New-Brunswick, including temporary foreign workers, are protected by the *New Brunswick Human Rights Act*.

The act protects individuals from discrimination or harassment based on race, colour, religion, national origin, ancestry, place of origin, age, physical disability, mental disability, marital status, sexual orientation, sex, political belief or activity or social condition.

The act protects you at home, at work or in the community. This includes:

- display of offensive materials;
- avoiding or excluding someone due to race, colour, religion, national origin, ancestry, place of origin, age, physical disability, mental disability, marital status, sexual orientation, sex, political belief or activity or social condition;
- verbal insults or degrading remarks; and
- unwelcome jokes about race, sex, religion, etc.

Workplace health and safety:

The *Occupational Health and Safety Act* protects and promotes the health and safety of workers in New Brunswick. The act also outlines the responsibilities of all New Brunswick employers and employees.

Workplace harassment may include abuse of authority or, demeaning comments about an employee's personal appearance and many workplaces have policies aimed at preventing harassment. However, if harassment or discrimination is based on race, colour, religion, national origin, ancestry, place of origin, age, physical disability, mental disability, marital status, sexual orientation, sex, political belief or activity or social condition, you may be able to complain under the *New Brunswick Human Rights Act*.

The New Brunswick Human Rights Commission is a provincial government agency responsible for promoting equality and enforcing the act. The process is free, and you do not need to hire a lawyer. You do not need to be a citizen or a landed immigrant. **It is illegal to penalize someone for filing a complaint.** For more information:

- New Brunswick Human Rights Commission:
www.gnb.ca/hrc-cdp
To file a complaint: 506-453-2301;
1-888-471-2233 (toll-free).

Employees' rights and responsibilities

New Brunswick employees have the right to a safe and healthy workplace. The *Occupational Health and Safety Act* requires employees to work in a healthy and safe manner and to co-operate with their employers by following the health and safety rules of the work site.

There are specific health and safety requirements all employees must follow. For example, employees may be required to use a safety harness or similar equipment when doing specific types of work. Some employees may also need to use personal protective equipment such as safety boots, safety glasses, ear plugs or a hard hat. It is the employee's responsibility to follow all workplace health and safety rules; and to ask questions if they do not understand.

Employers' responsibilities

Employers have a duty to monitor their employees' health and safety in the workplace. Every employer in New Brunswick has the responsibility to ensure that the place of employment is inspected at least once a month and to identify any risks to the health and safety of their employees. If a risk is identified, the hazards must be removed or controlled immediately; this may involve changes in equipment or require new rules and procedures, for workers to do their job as safely as possible. Any new information must be shared promptly with all workers.

Employers must:

- ensure employees have the training, qualifications and experience necessary to do their job;

It is against the law for anyone to force an employee to do work he or she thinks is unsafe. If an employee is asked to perform an action, and he or she has reason to believe that this action is likely to endanger his or her or a co-worker's health or safety, he or she has the right to refuse. Employers cannot terminate an employee because he or she refuses to work in dangerous conditions.

If you have concerns about your workplace or need help:

- WorkSafeNB
1-800-222-9775 (toll-free)

- inform employees about all health and safety hazards on the job site;
- ensure employees have all the tools, equipment, and personal protective equipment necessary to do their job safely;
- ensure employees know how to use equipment on the worksite;
- train employees how to handle dangerous products safely;
- post a copy of the *Occupational Health and Safety Act* and regulations in a prominent place visible to workers; and,
- investigate any incidents that cause injury, or incidents that could have caused injury.

New Brunswick employees are encouraged to learn more about their rights and responsibilities:

- WorkSafeNB: www.worksafenb.ca

Workers' compensation

WorkSafeNB is an organization that assists employees who have been injured at work. Temporary foreign workers are considered the same as other workers in New Brunswick. If any employer is covered under the *Workers' Compensation Act*, temporary foreign workers coverage begins as soon as they arrive in New Brunswick and begin working. Temporary foreign workers should ask their employer if they have workers' compensation coverage.

In the event of an accident, injury or occupational disease at work, employees must immediately:

- report the accident to their employer before leaving work, if possible;
- find medical treatment, if required, and advise the doctor that this is a work-related injury so that the medical reports can be forwarded to WorkSafeNB as soon as possible; and
- complete a report of the accident even if the employee does not require medical attention. The employer and the employee must complete an accident report and ensure that the report is forwarded to WorkSafeNB (fill Form 67 - Report of Accident or Occupational Disease). If there is disagreement between the employer and employee, they must still complete an accident report and forward it to WorkSafeNB immediately.

Please note: employers and employees cannot agree not to report the accident. All accidents must be reported to WorkSafeNB. Required forms are available at the WorkSafeNB office or at:

Employers should explain employees' job duties, working conditions and their responsibilities for safe work practices. Employees should know how WorkSafeNB works and the process for filing a claim. If an employee is injured at work, he or she may be eligible to receive benefits.

If a temporary foreign worker can do light duties (modified work) and his or her work permit allows it, an employer can assign light duties in the event of an injury. This will help workers remain working while they recover.

If possible, employers are asked to include a modified work option in their initial work permit application.

For more information:

- WorkSafe NB
1-800-222-9775 (toll-free); 506-632-2200 (outside of Canada)
www.worksafenb.ca
e-mail: webmaster@ws-ts.nb.ca

Landlords and tenants

In New Brunswick, the *Residential Tenancies Act* applies to most persons who rent their residence. This act sets out the rights and responsibilities of landlords and tenants.

Whether renting a suite, a room in someone's home or sharing accommodation, tenants must ensure that they understand the rules that apply to their specific situation, as different rental spaces have different rules.

All rental agreements should be in writing, signed by the landlord, and include: details about landlord and tenant responsibilities, the premises rented, length of tenancy, rent and services provided, security deposit, inspections, and termination notices.

For more information:

- Office of the Rentalsman
1-888-762-8600 (toll-free)
www.snb.ca/irent

New Brunswick's support for temporary foreign workers:

All New Brunswick employers are encouraged to offer settlement services to their temporary foreign workers. In addition, temporary foreign workers may be able to obtain services through the local immigrant-serving agencies operating throughout New Brunswick.

Immigrant-serving agencies

If temporary foreign workers require help settling and adapting to life in New Brunswick they can contact a local immigrant-serving agency. Services available at these organizations may include:

- practical guidance on everyday living and orientation to the community;
- referral to community resources (banks, housing, health, recreational, etc.);
- employment counselling;
- computer access centres;
- social events;
- language training; and
- basic interpretation services.

Following are immigrant serving agencies in New Brunswick

Acadian Peninsula:

- Centre d'accueil des nouveaux arrivants de la Péninsule acadienne:
506-727-0186

Carleton County area:

- Multicultural Association of Carleton County:
506-392-6011
www.maccnb.ca

Chaleur area:

- Multicultural Association of Chaleur Region Inc.:
506-547-7651
www.macr-amrc.ca

Charlotte County area:

- Multicultural Association of Charlotte County:
506-755-9295

Fredericton area:

- Multicultural Association of Fredericton:
506-454-8292
www.mcaf.nb.ca

Madawaska County

- Carrefour d'Immigration Rurale du Nord-Ouest Inc.:
506-423-3060
www.immigrationrurale.ca
- Centre de ressources pour nouveaux arrivants au Nord-Ouest:
506-735-0604

Miramichi area:

- Miramichi Regional Multicultural Association:
506-773-5272
www.miramichimulticultural.com

Moncton area:

- Centre d'accueil et d'accompagnement francophone des immigrants du Sud-Est du Nouveau-Brunswick (CAFI) :
506-382-7494
www.caiimm.org
- Multicultural Association of the Greater Moncton Area:
506-858-9659
www.magmamoncton.com

Restigouche County

- Association Multiculturelle du Restigouche:
506-789-7747

Saint John area:

- PRUDE (Pride, Race, Unity, Dignity, Education) in Saint John:
506-634-3088
www.prude.ca
- Saint John Multicultural and Newcomers Resource Centre:
506-642-4242
www.sjmnrc.ca
- Saint John YMCA-YWCA:
506-646-2389
www.saintjohnny.com

Settling in New Brunswick

If you have questions about settling in New Brunswick, settlement agencies or other settlement-related questions:

- Population Growth Division
Department of Post-Secondary Education, Training and Labour
506-453-2491
www.gnb.ca/immigration

New Brunswick Provincial Nominee Program:

The New Brunswick Provincial Nominee Program (PNP) can help temporary foreign workers and their families make New Brunswick their permanent home.

Making New Brunswick a permanent home

The PNP, operated by the Government of New Brunswick in conjunction with Citizenship and Immigration Canada, helps to fast-track the immigration process for qualified foreign workers in targeted occupations.

If an individual would like to live and work in New Brunswick permanently, and his or her New Brunswick employer has offered permanent, full-time employment, he or she can speak with his or her employer about applying to the PNP. To apply, follow the following steps:

- visit www.gnb.ca/immigration to review eligibility criteria and determine the appropriate PNP program to which to apply;
- download and complete the PNP application forms and gather all supporting documentation; and
- mail the complete application to the following address:
 - Population Growth Division
Department of Post-Secondary
Education, Training and Labour
P.O. Box 6000
Fredericton, NB
E3B 5H1
Canada

Applications that meet the PNP eligibility criteria may be approved as provincial nominees. Permanent resident applications will be submitted to a Canadian visa post by the PNP officer.

Citizenship and Immigration Canada will screen the file for inaccuracies and arrange for health, criminal and security checks, following the approval of an application. If these checks are passed, the applicant will receive his or her permanent residence status.

Citizenship and Immigration Canada will make the final decision on whether the individual qualifies for a permanent resident visa.

For more information about PNP:

- Population Growth Division
Department of Post-Secondary
Education, Training and Labour
www.gnb.ca/immigration

Immigrating to New Brunswick

If you have questions about working in New Brunswick, the PNP or other immigration-related questions,:

- Population Growth Division
Department of Post-Secondary
Education, Training and Labour
506-453-3981
www.gnb.ca/immigration
e-mail: immigration@gnb.ca

First day checklist for temporary foreign workers:

Review your work permit for validity and accuracy – double check employer name, location of employment, occupation, employee name and date of birth.

My workday:

- ☐ what are my daily hours?
- ☐ what are my regular workdays?
- ☐ should I be at work earlier than the start of the shift? How much time is appropriate?
- ☐ how long is my lunch break?
- ☐ is my lunch break paid?
- ☐ do I get any other breaks? Coffee breaks?
- ☐ how many hours do I have to work weekly before I am eligible for overtime?
- ☐ how much overtime is required?
- ☐ what is my overtime rate?
- ☐ will my employer provide transportation to and from work?

Pay and benefits:

- ☐ how will I receive my pay?
- ☐ how often will I be paid?
- ☐ do I receive health benefits, a pension or union membership?
- ☐ how much will these benefits cost?
- ☐ will someone review the deductions from my pay cheque with me?
- ☐ will I be paid for travel to and from work?
- ☐ will I be paid a bonus? What do I have to do to earn it? How much will it be?

Taking time off:

- ☐ do I get paid vacation time or is my vacation pay deducted from my pay cheque over the year?
- ☐ how is my vacation time/pay calculated?
- ☐ what happens if I am sick? Whom do I contact? What is my responsibility?
- ☐ do I get paid sick days?
- ☐ am I allowed to schedule unpaid time off?

Health and safety questions:

- ☐ what are the risks and dangers of my job?
- ☐ what other hazards should I know about my workplace?
- ☐ when will I receive job training?
- ☐ is there any health and safety information available for me?
- ☐ are there health and safety meetings?
- ☐ where are the first aid kits and fire extinguishers located?
- ☐ what do I do if there is a fire or other emergency?
- ☐ whom do I see if I get hurt at work?
- ☐ what are my health and safety responsibilities?
- ☐ what are my employer's health and safety responsibilities?
- ☐ with whom should I talk if I have a health and safety question?

Resources:

New Brunswick

- Employment Standards:
Department Post-Secondary Education,
Training and Labour
1-888-452-2687 (toll-free);
506-453-2725
www.gnb.ca/labour
- New Brunswick Human Rights
Commission:
1-888-471-2233 (toll-free); 506-453-2301
www.gnb.ca/hrc-cdp
- New Brunswick medicare card (public
health insurance):
www.gnb.ca/medicare
- Population Growth Division
Department of Post-secondary
Education, Training and Labour:
506-453-3981
www.gnb.ca/population
- New Brunswick Provincial Nominee
Program:
www.gnb.ca/immigration
- Service New Brunswick:
1-888-762-8600 (toll-free, within North
America); 506-684-7901 (outside North
America)
Hours of operation: Monday to Friday,
8:30 a.m. to 8 p.m., Saturday, 9 a.m. to 1
p.m., Atlantic time
www.snb.ca
- WorkSafeNB:
1-800-222-9775 (toll-free);
506-632-2200
e-mail: webmaster@ws-ts.nb.ca

Canada

- Citizenship and Immigration Canada:
1-888-242-2100 (toll-free)
www.cic.gc.ca
- Service Canada (Employment Insurance
Program):
1-800-206-7218 (toll-free)
[www.servicecanada.gc.ca/eng/ei/
types/special.shtml](http://www.servicecanada.gc.ca/eng/ei/types/special.shtml)
- Human Resources and Skills
Development Canada:
[www.hrsdc.gc.ca/en/workplaceskills/
foreign_workers/index.shtml](http://www.hrsdc.gc.ca/en/workplaceskills/foreign_workers/index.shtml)